IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 13TH JUNE 2007 / 23RD JYAISHTA 1929

WP(C).No. 10618 of 2004(L)

AGAINST THE ORDER DATED 6/2/2004 IA.811/2003 IN OS 798 1999 IN of I ADDL.SUB COURT, THRISSUR

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PETITIONER:

MANIYAPPAN, S/O.PARVATHY AMMA, AGED 53 YEARS, EACHARATH, PUTHUKKARA, AYYANTHOL, THRISSUR

BY ADV. SRI.K.A.MANZOOR ALI

RESPONDENTS:

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1. EDAKKALATHUR CHITIES AND LOANS PRIVATE LIMITED REP. BY ITS CHAIRMAN, PALLITHAMAM SHOPPING COMPLEX, KARUNAKARAN NAMBIAR ROAD, TRISSUR.

2. JOY, S/O.KOTTAYATHUKARAN ANTHONY ANCHERY DESOM, OLLUR VILLAGE, TRISSUR TALUK..

3. SHAJI, S/O.NEELANKAVIL JOHNY, CHEVOOR DESOM, PALLISERRY VILLAGE, TRISSUR TALUK.

4. JOSE, S/O.POOVATHUNKAL CHAKKUNNI, NELLIKKUNNU DESOM, NADATHARA VILLAGE, TRISSUR TALUK.

5. BINDU, W/O.KOTTAYATHUKARAN JOHNY, ANCHERY DESOM, OLLUR VILLAGE, TRISSUR TALUK.

R1 BY ADV. SRI.V.GIRI

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 13/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.10618/04

APPENDIX

PETITIONER'S EXTS:

EXT:P1 – MEDICAL CERTIFICATE DT.4.1.03 ISSUED FROM DIST. HOSPITAL, THRISSUR.

EXT.P2 – COPY OF ORDER DT.6.2.04 OF SUB COURT, TRISSUR, IN I.A.811/03 IN O.S.798/99

/TRUE COPY/

PIUS C. KURIAKOSE, J.

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W.P.(C)No.10618 OF 2004

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DATED THIS THE 13TH JUNE, 2007

J U D G M E N T

Even though it cannot be said that Ext.P2 order of the learned Sub Judge is vitiated to such an extent as to warrant correction by this Court under the visitorial jurisdiction, I find some merit in the submission of the learned counsel for the petitioner Sri.K.A.Manzoor Ali that the condition imposed by the learned Sub Judge was a little bit onerous.

2. Having regard to the rival submissions addressed at the Bar, Ext.P2 order will stand modified to the extent of substituting the condition imposed by the court below by another condition:-

> Instead of the petitioner being directed to deposit Rs.25,000/-, it is ordered that the I.A. filed by the petitioner will stand allowed on condition that the petitioner pays a total amount of Rs.5000/- by way of costs. Out of the above Rs.5000/-, Rs.4000/- shall be paid by the petitioner to the 1st respondent either directly or through their counsel in this Court and Rs.1000/- to the Kerala High Court Legal Services Committee, within three

weeks from today. Failing such payments, the I.A. will stand dismissed.

It is made clear that the effect of the I.A. being allowed will be to set aside the decree to the extent it is against the petitioner alone. It is open to the 1st respondent to levy execution of the decree against the other respondents.

The Writ Petition is disposed of as above.

(PIUS C.KURIAKOSE, JUDGE)

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